

SENATE BILL 2396
By Crutchfield

AN ACT to amend Tennessee Code Annotated, Section 3-11-102; Section 3-12-102; Section 3-13-102; Section 3-16-102; Title 8, Chapter 30; Title 8, Chapter 30, Part 1; Title 8, Chapter 30, Part 2 and Title 8, Chapter 30, Part 3, relative to civil service.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) Tennessee Code Annotated, Section 8-30-101(a), is amended by inserting the following as new, appropriately designated subdivisions:

() "Executive branch state service" means executive service and career service as set forth within Section 8-30-208(a);

() "Legislative branch state service" means executive service and career service as set forth within Section 8-30-208(b);

(b) Tennessee Code Annotated, Section 8-30-101(a)(5), is amended by deleting the words "means the state civil service commission" and by substituting instead the words "means, in Parts 1 through 3, the civil service commission for the executive branch state service".

(c) Tennessee Code Annotated, Section 8-30-101(a)(6), is amended by deleting the words "means the commissioner of personnel" and by substituting instead the words "means, in Parts 1 through 3, the commissioner of personnel".

(d) Tennessee Code Annotated, Section 8-30-101(a)(23), is amended by deleting the words “in the executive branch” and by substituting instead the words “in the executive branch and in the legislative branch”.

(e) Tennessee Code Annotated, Section 8-30-101(a)(23), is further amended by deleting items (A), (C), (D), and (E).

(f) Tennessee Code Annotated, Section 8-30-101(a)(23), is further amended by adding the following sentence:

State service does not include the members of the general assembly, the secretary of state, the comptroller of the treasury and the state treasurer; provided, however, state service does include employees and positions within the legislative department, the office of the secretary of state, the office of the comptroller of the treasury and the office of the state treasurer.

SECTION 2. Tennessee Code Annotated, Section 8-30-102, is amended by deleting the language of the section in its entirety and by substituting instead the following:

There is created and established in the department of personnel a civil service commission for the executive branch state service. The commission shall consist of nine (9) members.

SECTION 3. Tennessee Code Annotated, Section 8-30-108, is amended by deleting the language of the section in its entirety and by substituting instead the following:

In addition to the duties expressly imposed upon the commission elsewhere in Title 8, Chapter 30, Parts 1 through 3, the commission shall:

(1) Represent the public interest in the improvement of personnel administration in the executive branch state service; and

(2) Have jurisdiction to hear civil service appeals brought by employees within the executive branch career service pursuant to statute and regulations promulgated pursuant thereto. The commission shall also be the final step in the

grievance procedure provided for regular employees within the executive branch state service.

SECTION 4.

(a) Tennessee Code Annotated, Section 8-30-201(a), is amended by deleting the words "There is established for employees of this state" and by substituting instead the words "There is established for the employees within the executive branch state service, as set forth in Section 8-30-208(a),".

(b) Tennessee Code Annotated, Section 8-30-201(a), is further amended by adding the following sentence:

The system shall foster the highest degree of professionalism, competence and nonpartisanship within the executive branch career service. Party affiliation, or lack thereof, shall not be a factor in any employee personnel action within the executive branch career service.

(c) Tennessee Code Annotated, Section 8-30-201, is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b) With respect to the executive branch state service, the department of personnel shall administer the provisions of Title 8, Chapter 30, Parts 1 through 3.

SECTION 5.

(a) Tennessee Code Annotated, Section 8-30-202, is amended by deleting the words "state service" wherever the words sequentially appear and by substituting instead the words "executive branch state service".

(b) Tennessee Code Annotated, Section 8-30-202, is further amended by deleting the words "executive service" wherever the words sequentially appear and by substituting instead the words "executive branch executive service".

(c) Tennessee Code Annotated, Section 8-30-202, is further amended by deleting the words “this chapter” wherever the words sequentially appear and by substituting instead the words “Title 8, Chapter 30, Parts 1 through 3,”.

SECTION 6. Tennessee Code Annotated, Section 8-30-204(a), is amended by deleting the words “The commissioner shall recommend such rules” and by substituting instead the words “With respect to the executive branch state service, the commissioner shall recommend such rules”.

SECTION 7. Tennessee Code Annotated, Section 8-30-207, is amended by deleting the words “The commissioner may maintain such action or proceeding” and by substituting instead the words “With respect to the executive branch state service, the commissioner may maintain such action or proceeding”.

SECTION 8. Tennessee Code Annotated, Section 8-30-208, is amended by deleting the section in its entirety and by substituting instead the following:

(a)

(1) Executive branch state service shall be divided into an executive service and a career service. The executive service shall consist of the following:

(A) Members of each board, commission, agency and authority; and the chief executive officer of each board, commission, agency and authority;

(B) The commissioner of each department; and one confidential administrative assistant for the commissioner;

(C) The deputy commissioner of each department; and one confidential administrative assistant for the deputy commissioner;

(D) Assistant commissioners within each department; and one confidential administrative assistant for each such assistant commissioner; and

(E) All positions in the governor's office.

All other regular full-time state service positions, other than positions included within the legislative branch state service by the provisions of subsection (b), shall be included in the executive branch career service.

(2) No position shall be designated as a deputy commissioner or assistant commissioner unless actual duties and responsibilities necessarily vest the holder of the position with statewide policy making authority and require the holder of such position to engage in direct personal consultation with the commissioner on a daily or almost daily basis. However, within any department having fewer than five hundred (500) regular full-time employees in state service, there shall be not more than one (1) deputy commissioner and not more than five (5) assistant commissioners; and within any department having five hundred (500) or more regular full-time employees in state service, there shall be not more than one (1) deputy commissioner and not more than eight (8) assistant commissioners.

(b) Legislative branch state service, (which for purposes of this act shall include the legislative department and the offices of the secretary of state, comptroller of the treasury and state treasurer), shall be divided into an executive service and a career service. The executive service shall include the following:

(1) The chief deputy for the secretary of state; one confidential administrative assistant for the secretary of state; and one confidential administrative assistant for the chief deputy;

(2) The chief deputy for the comptroller of the treasury; one confidential administrative assistant for the comptroller of the treasury; and one confidential administrative assistant for the chief deputy;

(3) The chief deputy for the state treasurer; one confidential administrative assistant for the state treasurer; and one confidential administrative assistant for the chief deputy;

(4) The chief of staff for the speaker of the senate; one confidential administrative assistant for the speaker of the senate; the chief clerk of the senate; and one confidential administrative assistant for each of the following senate officers:

- (A) The speaker pro tem,
- (B) The deputy speaker,
- (C) The majority party leader,
- (D) The majority party caucus chairman,
- (E) The minority party leader, and
- (F) The minority party caucus chairman;

(5) The chief of staff for the speaker of the house of representatives; one confidential administrative assistant for the speaker of the house of representatives; the chief clerk of the house of representatives; and one confidential administrative assistant for each of the following house officers:

- (A) The speaker pro tem,
- (B) The deputy speaker,
- (C) The majority party leader,
- (D) The majority party caucus chairman,
- (E) The minority party leader, and
- (F) The minority party caucus chairman.

All other regular full-time state service positions within the legislative department, the office of the secretary of state, the office of the comptroller of the treasury and the office of the state treasurer shall be included in the legislative branch career service.

(c) All executive orders issued pursuant to Section 8-30-208, prior to the effective date of this act, are hereby superseded and repealed.

SECTION 9. Tennessee Code Annotated, Title 8, Chapter 30, Part 2, is amended by adding the following as a new, appropriately designated section:

(a) An appointing authority shall not employ or appoint an executive branch career service employee or legislative branch career service employee to an executive service position without the prior written consent of the career service employee.

(b) Any executive branch career service employee or legislative branch career service employee who accepts employment or appointment to an executive service position may, at any time during the thirty (30) day period immediately following the date of such employment or appointment, elect without prejudice to return to career service.

SECTION 10. Tennessee Code Annotated, Title 8, Chapter 30, Part 2, is amended by adding the following as a new, appropriately designated section:

(a)

(1) The department of personnel and the department of finance and administration shall jointly report each month to the speaker of the senate, the speaker of the house of representatives, and the chair of the fiscal review committee all personnel actions which have the effect of increasing or reducing the salary of any one (1) or more employees within the executive branch state service. Such personnel actions shall include, but not necessarily be limited to promotions, suspensions, dismissals, demotions, layoffs, position abolishments and reclassifications. Such report shall indicate clearly by department or agency the employee's name, title, official address, the specific personnel action resulting in the salary adjustment, the employee's salary immediately prior to such action and the amount of salary adjustment resulting from such action. Such report need not include any salary adjustments resulting from across-the-

board pay raises or payments generally awarded to employees within the career service.

(2) In a separate section, the report shall also include all other personnel actions which significantly affect individual job assignments within the executive branch state service, but which do not necessarily affect the salary of any one (1) or more employees within the state service. Such actions shall include, but not necessarily be limited to transfers, reassignments, temporary appointments and emergency appointments. Such information shall indicate clearly by department or agency the employee's name, title, official address, and the specific personnel action affecting such employee.

(b)

(1) The legislative office of personnel shall report each month to the speaker of the senate, the speaker of the house of representatives, and the chair of the fiscal review committee all personnel actions which have the effect of increasing or reducing the salary of any one (1) or more employees within the legislative branch state service. Such personnel actions shall include but not necessarily be limited to promotions, suspensions, dismissals, demotions, layoffs, position abolishments and reclassifications. Such report shall indicate clearly by agency or office the employee's name, title, official address, the specific personnel action resulting in the salary adjustment, the employee's salary immediately prior to such action and the amount of salary adjustment resulting from such action. Such report need not include any salary adjustments resulting from across-the-board pay raises or payments generally awarded to employees within the career service.

(2) In a separate section, the report shall also include all other personnel actions which significantly affect individual job assignments within the legislative branch state service, but which do not necessarily affect the salary of any one (1)

or more employees within the state service. Such actions shall include, but not necessarily be limited to transfers, reassignments, temporary appointments and emergency appointments. Such information shall indicate clearly by agency or office the employee's name, title, official address, and the specific personnel action affecting such employee.

(c) With respect to all personnel actions reported pursuant to subsections (a) or (b), the reports shall indicate each such action which resulted in a delay, postponement or adverse outcome in any judicial, administrative or legislative hearing, proceeding or other forum affecting the health, safety or welfare of any one (1) or more citizens of this state.

(d) The reports required by this section shall be furnished to any other member of the general assembly upon such member's request.

SECTION 11. Tennessee Code Annotated, Title 8, Chapter 30, is amended by adding the following new sections, to be designated as "Part 4":

§8-30-401. There is created and established in the legislative office of personnel a civil service commission for employees within the legislative branch state service, as set forth in Section 8-30-208(b). The commission shall consist of three (3) members.

§8-30-402. The members of the legislative branch civil service commission shall be citizens of the state who are in sympathy with the application of merit principles to public employment. No member of the commission shall be a member of any state or national committee of a political party or shall hold or be a candidate for any paid public office or shall be a registered lobbyist.

§8-30-403. The members of the legislative branch civil service commission shall be appointed by the joint legislative services committee from the public at large. The terms of office shall be so arranged that no more than one (1) term expires in any given year. Of the three (3) members newly appointed, one (1) member shall be appointed to an initial term of six (6) years, one (1) member shall be appointed to an initial term of

four (4) years and one (1) member shall be appointed to an initial term of two (2) years. Thereafter, each member shall be appointed for a term ending six (6) years from the date of the expiration of the term for which the member's predecessor was appointed, except that a person appointed to fill a vacancy occurring prior to the expiration of such term shall be appointed for the remainder of the term. Each appointment to the commission shall be subject to legislative confirmation by joint resolution which, if the general assembly is not in session at the time of appointment, must be adopted during the next regular legislative session occurring after such appointment.

§8-30-404. Members of the legislative branch civil service commission shall each be paid fifty dollars (\$50.00) per day for attendance at meetings of the commission and shall be entitled to reimbursement for necessary travel expenses in accordance with the state comprehensive travel regulations.

§8-30-405. A member of the commission may be removed by the joint legislative services committee only for cause, after being given a copy of the charges against the member and an opportunity, after not less than fifteen (15) days written notice of the date of the hearing thereon, to be heard publicly on such charges before the committee. A copy of the charges and a transcript of the record of the hearing shall be filed with the secretary of state.

§8-30-406. The commission shall elect one (1) of its members as chair. The commission shall meet at least once every six (6) months and at such other times as shall be specified by call of the chair, the legislative personnel officer, or the joint legislative services committee. Notice of each meeting shall be given in writing to each member by the legislative personnel officer, and such notice shall specify the place and the time of the meeting. Two (2) members shall constitute a quorum.

§8-30-407. In addition to the duties expressly imposed upon the legislative branch civil service commission elsewhere in this part, the commission shall:

(1) Represent the public interest in the improvement of personnel administration in the legislative branch state service; and

(2) Have jurisdiction to hear civil service appeals brought by employees within the legislative branch state service pursuant to statute and regulations promulgated pursuant thereto. The commission shall also be the final step in the grievance procedure provided for regular employees within the legislative branch state service.

§8-30-408.

(a) There is established for employees within the legislative branch state service, as set forth in Section 8-30-208(b), a system of personnel administration based on merit principles and scientific methods. The system shall govern the appointment, promotion, transfer, layoff, removal and discipline of employees, and other incidents of state employment. All appointments and promotions of positions in the legislative branch career service shall be made on the basis of merit and fitness, to be ascertained by examinations. The system shall foster the highest degree of professionalism, competence and nonpartisanship within the legislative branch career service. Party affiliation, or lack thereof, shall not be a factor in any employee personnel action within the legislative branch career service.

(b) The office of legislative personnel shall administer the provisions of this part and shall be charged with the duty of progressively improving their effectiveness.

§8-30-409. The director of the office of legislative personnel shall direct and supervise all administrative and technical activities of the commission with respect to legislative branch state service. In addition to the other duties imposed upon the director by law, the director has the duty to:

(1) Attend all meetings of the commission and to act as its secretary and keep minutes of its proceedings;

(2) Develop, in cooperation with appointing authorities and others, training and educational programs for employees in the legislative branch state service; and

(3) Perform other staff services for the commission as requested.

§8-30-410. On or before the convening of the 1997 regular session of the one hundredth general assembly, the legislative branch civil service commission shall develop, promulgate and implement a comprehensive civil service system of personnel administration for the legislative branch state service based on merit principles and scientific methods. Such system shall be consistent with the provisions of this act and may be patterned after the system established for the executive branch state service by the provisions of Title 8, Chapter 30, Parts 1 through 3, and rules promulgated pursuant thereto, and/or after systems established for legislative branch employees in other states. In developing, promulgating and implementing such system, if staff in addition to the director of legislative personnel is required, then the commission shall utilize existing staff resources within the legislative department and the offices of the secretary of state, comptroller of the treasury, and the state treasurer and may call upon the national conference of state legislatures for technical assistance and consultation.

SECTION 12.

(a) Tennessee Code Annotated, Sections 3-11-102, 3-12-102 and 3-16-102, are amended by deleting the third sentence in each section, respectively.

(b) Tennessee Code Annotated, Section 3-13-102, is amended by deleting the fourth sentence.

SECTION 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 14. This act shall take effect upon becoming a law, the public welfare requiring it.